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Attorneys for Plaintiff  
MAHSHID KIANFARD

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

MAHSHID KIANFARD	)	No.: C07-2904 WDB
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
	)	
ALBERTO R. GONZALES, Attorney General of	)	JOINT STATEMENT OF
the United States, in his Official Capacity;	)	UNCONTROVERTED FACTS
ROBERT S. MUELLER, Director of FBI, in his	)	
Official Capacity; MICHAEL CHERTOFF,	)	
Secretary of Department of Homeland Security, in	)	Judge: Hon. Wayne D. Brazil
his Official Capacity; EMILIO T. GONZALEZ,	)	Date: November 7, 2007
Director of United States Citizenship and	)	Time: 1:30 p.m.
Immigration Services, in his Official Capacity;	)	
ROSEMARY MELVILLE, District Director of the	)	
San Francisco Citizenship and Immigration	)	
Services in her Official Capacity;	)	
	)	
Defendants.	)	

UNCONTROVERTED FACTS

1. Plaintiff is a native and citizen of Iran, born on July 18, 1968, in Tehran, Iran.  
*Declaration of Plaintiff*, page 1 and Exhibit A

JOINT STATEMENT OF  
UNCONTROVERTED FACTS

1           2.       Plaintiff entered the United States without inspection or admission on or about  
2 September 1, 1999. *Declaration of Plaintiff*, page 2.

3           3.       Plaintiff was physically present in the United States on and prior to December 21,  
4 2000, the date of enactment of the LIFE Act Amendments of 2000. *Declaration of Plaintiff*,  
5 page 2, Exhibit B.

6           4.       On April 30, 2001, Plaintiff's mother, Khanom Pirvali, filed a *Form I-130*,  
7 second-preference family immigrant visa petition to accord her status as an unmarried son or  
8 daughter of a permanent resident over 21 years of age. *Declaration of Plaintiff* at Exhibit C.

9           5.       Plaintiff married Amir Radpour, a United States citizen, in Los Angeles,  
10 California on November 14, 2004. *Declaration of Plaintiff*, at Exhibit D.

11           6.       On January 18, 2005, Plaintiff filed with the San Francisco District Office of the  
12 U.S. Citizenship and Immigration Service (USCIS) her *Form I-485 Application to Register*  
13 *Permanent Residence or Adjust Status*, and *Supplement A to Form I-485, Adjustment of Status*  
14 *under Section 245(i) of the Act*, based on the Form I-130 immediate relative petition concurrently  
15 filed by Plaintiff's U.S. citizen spouse. *Declaration of Plaintiff* at Exhibit E.

16           7.       On May 11, 2005, plaintiff and her spouse appeared at USCIS San Francisco  
17 District Office for the adjustment of status interview.

18           8.       At her interview, Plaintiff satisfied the requirements for eligibility as a  
19 "grandfathered alien" for adjustment of status under 8 U.S.C. § 1255(i), INA § 245(i), by  
20 presenting evidence of a visa petition filed on her behalf by her lawful permanent resident  
21 mother on April 30, 2001; that she was physically present in the United States on or before  
22 December 21, 2000; and that she paid an additional \$1,000 filing fee. 8 CFR 245.10 (a)(1)(i).

23           9.       On May 11, 2005, USCIS withheld final adjudication of the Plaintiff's adjustment  
24 of status application because plaintiff's FBI name check had not been completed. *Declaration of*  
25 *Plaintiff*, at Exhibit F.

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10. The name check conducted by the FBI as part of the security clearances required for Plaintiff's adjustment of status application has been pending since April 22, 2005. Declaration of Plaintiff at Exhibit I.

11. The delay in final adjudication of Plaintiff's application for adjustment of status is solely attributable to the FBI name check pending since April 2005.

12. Plaintiff must renew her employment authorization annually until such time as her application for adjustment of status is adjudicated. *Declaration of Theodore Chen*, page 3.

Dated: October 5, 2007

Respectfully Submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
THEODORE C. CHEN  
Attorney for Plaintiff

\_\_\_\_\_/s/\_\_\_\_\_  
 ILA C. DEISS  
 Attorney for Defendants

## JOINT STATEMENT OF UNCONTROVERTED FACTS